

ORDINANCE NO. _____

**AN ORDINANCE TO AMEND CHAPTER 5 – ANIMALS AND FOWL
OF THE CODE OF ORDINANCES, CITY OF MEMPHIS
TO PREVENT CRUELTY TO ANIMALS AND COCK AND ANIMAL FIGHTING**

WHEREAS, the Memphis City Council desires to protect the citizens and pets of Memphis from the dangers of animal cruelty, animal fighting and decrease the number of animals that are abused and abandoned; and

WHEREAS, current code does not properly address these dangers and how they can be eliminated.

NOW, THEREFORE,

SECTION 1. BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, That Chapter 5 – Animals and Fowl – of the Code of Ordinances, City of Memphis, are hereby amended to add Article VI which is adopted to read as follows:

ARTICLE VI – CRUELTY TO ANIMALS

Sec. 5-90. Cruelty to animals.

(a) A person commits an offense who intentionally or knowingly:

1. Tortures, maims or grossly overworks an animal;
2. Fails unreasonably to provide necessary food, water, care or shelter for an animal in the person's custody;
3. Abandons unreasonably an animal in the person's custody;
4. Transports or confines an animal in a cruel manner; or
5. Inflicts burns, cuts, lacerations, or other injuries or pain, by any method, including blistering compounds, to the legs or hooves of horses in order to make them sore for any purpose including, but not limited to, competition in horse shows and similar events.

(b) A person commits an offense who knowingly ties, tethers, or restrains a dog in a manner that results in the dog suffering bodily injury. "Bodily injury" includes a cut, abrasion, bruise, burn or disfigurement, and physical pain or temporary illness or impairment of the function of a bodily member, organ, or mental faculty.

(c) It is a defense to prosecution under this section that the person was engaged in accepted veterinary practices, medical treatment by the owner or with the owner's consent, or bona fide experimentation for scientific research.

(d) Whenever any person is taken into custody by any officer for violation of subdivision (a)4., the officer may take charge of the vehicle or conveyance, and its contents, used by the person to transport the animal. The officer shall deposit these items in a safe place for custody. Any necessary expense incurred for taking charge of and sustaining the same shall be a lien thereon, to be paid before the same can lawfully be recovered; or the expenses, or any part thereof, remaining unpaid may be recovered by the person incurring the same of the owners of the animal in an action therefor.

(e) In addition to the penalty imposed in subsection (g), the court making the sentencing determination for a person convicted under this section shall order the person convicted to surrender custody and forfeit the animal or animals whose treatment was the basis of the conviction. Custody shall be given to a humane society incorporated under the laws of this state. The court may prohibit the person convicted from having custody of other animals for any period of time the court determines to be reasonable, or impose any other reasonable restrictions on the person's custody of animals as necessary for the protection of the animals.

(f) 1. Nothing in this section shall be construed as prohibiting the owner of a farm animal or someone acting with the consent of the owner of that animal from engaging in usual and customary practices which are accepted by colleges of agriculture or veterinary medicine with respect to that animal.

2. It is an offense for a person other than a law enforcement officer acting with probable cause to knowingly interfere with the performance of any agricultural practices permitted by subdivision (f)1.

3. An offense under subdivision (f) 2 is a Class B misdemeanor.

(g) 1. Cruelty to animals is a Class A misdemeanor.

2. A second or subsequent conviction for cruelty to animals is a Class E felony.

3. Violation of any prohibition or restriction imposed by the sentencing court pursuant to subsection (e) is a Class A misdemeanor.

Sec. 5-91. Cock and animal fighting.

(a) It is unlawful for any person to:

1. Own, possess, keep, use or train any bull, bear, dog, cock, swine or other animal, for the purpose of fighting, baiting or injuring another such animal, for amusement, sport or gain;

2. Cause, for amusement, sport or gain, any animal referenced in subdivision (a)(1) to fight, bait or injure another animal, or each other;

3. Permit any acts stated in subdivisions (a) 1 and 2 to be done on any premises under the person's charge or control, or aid or abet those acts; or

4. Be knowingly present, as a spectator, at any place or building where preparations are being made for an exhibition for the fighting, baiting or injuring of any animal, with the intent to be present at the exhibition, fighting, baiting or injuring.

(b) It is the legislative intent that the provisions of this section shall not apply to the training or use of hunting dogs for sport or to the training or use of dogs for law enforcement purposes.

(c) 1. Except for any offense involving a cock, an offense under subdivisions (a)1 - 3 is a Class E felony.

2. An offense involving a cock under subdivisions (a) 1 - 3 is a Class A misdemeanor.

(d) 1. An offense under subdivision (a) 4 is a Class B misdemeanor if the person is a spectator at a dog fight.

2. Any other violation of subdivision (a) 4 is a Class C misdemeanor.

(e) It is not an offense to own, possess or keep cocks, or aid or abet the ownership, possession or keeping of cocks, for the sole purpose of selling or transporting cocks to a location in which possession or keeping of cocks is legal.

Sec. 5-92. Penalty.

(a) Animal cruelty and animal fighting are dangerous public nuisances and all monies, profits and fruits of such illegal activity shall be subject to forfeiture action.

(b) In addition to penalties named in Sec. 5-90 (d) and (e), a lien for all costs and expenses of enforcement of this ordinance, including veterinary treatment and care, feeding and housing of animals surrendered or forfeited under this ordinance is declared on property where violation(s) of this section occurred. Such liens shall be enforced by attachment proceedings in any court of competent jurisdiction.

SECTION 2. BE IT FURTHER ORDAINED, that the provisions of this Ordinance are hereby severable. If any of these sections, provisions, sentences, clauses, phrases, or parts are held unconstitutional or void, the remainder of this Ordinance shall continue in full force and effect.

SECTION 3. BE IT FURTHER ORDAINED BY THE COUNCIL OF THE CITY OF MEMPHIS, that this ordinance shall take effect on the later of after it is passed by the Council, signed by the Chairman of the Council, certified and delivered to the Office of the Mayor in writing by the comptroller and become effective as otherwise provided by law.

SHEA FLINN
Council Member

MYRON LOWERY
Council Chairman

Attest:

Patrice Thomas, Comptroller